

WorkCover Update

Christina Carras and Matt Bannan
7 August 2013

Agenda

- Common Law and Prosecution case updates
- Legal provider fees
- Medical and allied health strategies
- WorkCover newsletter
- Industries

Common Law Cases

General trials update

Trials – 22 judgements in 2012/13 with a 68% win ratio (up from 54%)

Pending trial judgements

28 trials scheduled to end of calendar year 2013

Common Law Cases

Arnold v Tilecorp Pty Ltd [2012] QSC 321

Martin J

25 October 2012

Arnold v Tilecorp Pty Ltd [2013] QCA 211

02 August 2013

This case was determined according to issues of credit, with His Honour preferring the employer's evidence over that of the worker's as to the system of work he was undertaking at the time. The matter proceeded in relation to both liability and quantum. Claim dismissed at original trial

Plaintiff appealed to the QCA; the appeal was heard on 1 May 2013, with judgement delivered 02/08/2013. The plaintiff's appeal was dismissed with costs

Common Law Cases

*Pershouse v Sirius Observatories Australia Pty Ltd [2013] QDC
Noud DCJ
9 May 2013*

The worker was employed in a marketing and administrative role by a manufacturer of fiberglass moulds. She allegedly suffered a head injury when she walked into the leg of a large fiberglass mould whilst walking across a production room.

The Plaintiff alleged the employer should have taken steps to prevent the Plaintiff from entering the production room, that the moulds should have been cordoned off or turned, so that the legs faced the walls rather than into the room. The employer alleged the incident occurred solely because the Plaintiff failed to watch where she was walking.

The Trial Judge found against the worker on liability and therefore dismissed the claim. The worker was also ordered to pay the employer's costs.

Common Law Cases

Weaver v Endeavour Foundation [2013] QSC 93

McMeekin J

12 April 2013

Plaintiff originally successful at trial - “back steps” manoeuvre; \$369K in damages awarded. This matter has now been appealed by WorkCover to the Court of Appeal; trial set down for 05 September 2013.

Tep v ATS Australasian Technical Services Pty Ltd [2012] QSC

Fryberg J

7 September 2012

Tep v ATS Australasian Technical Services Pty Ltd [2013] QCA 180

12 July 2013

Plaintiff originally unsuccessful at trial. Plaintiff appealed to COA – appeal allowed; judgement set aside and proceeding remitted to QSC for re-trial on liability and quantum

Common Law Cases

Dwyer v Framemaster (Qld) Pty Ltd [2013] QDC 150

05 July 2013

Application brought by plaintiff for disclosure of two workers' compensation files for injuries which occurred several years prior to the subject claim and involved different workers employed by the same employer

Plaintiff served a NNPD on Q-COMP – obtained details of all past claims against the employer; served same on WCQ which was rejected; Application brought by plaintiff

Court looked at s279 WCRA and s27 PIPA – the wording of the section is important
“(i) the circumstances of THE event resulting in injury....”

Court agreed that there is some limit on the duty to cooperate under s279; plaintiff may seek disclosure of any documents directly related to an allegation in issue in the pleadings; however not required to disclose material that does not relate to the circumstances of the event which caused the injury and is not directly related to any issue in the proceedings.

Recent Successful Prosecution

- Engage in a Calling (s533/535) + False and Misleading Statement (s534)
- Initially pleaded not guilty; changed plea to guilty
- Worker failed to disclose a return to employment and engaged in a calling as truck driver during a period of his statutory claim (labour hire/host employer)
- Informed WorkCover that he had not worked – had worked on 47 previous occasions; worked on 70 occasions during the offending period
- On 3 separate occasions, attended on GP on same day he worked for purposes of obtaining medical certificate; then provided to WCQ for purposes of obtaining statutory benefits
- Convicted and sentenced to serve 6 months imprisonment for Charge 1 (Fraud – Return to a Calling) and 2 months imprisonment in relation to Charge 2 (False and Misleading Statement to WorkCover).
- The Court also ordered that the Defendant pay restitution in the sum of \$23,353.65. The Court also ordered that the Defendant pay WorkCover's costs in the sum of \$12,312.90.
- Convictions were recorded and sentences wholly suspended

Legal provider fees

- Panel lawyer fees
- Barrister fees
- Factual investigator fees

Medical and Allied Health strategies

- Return to Work (RTW) Services provider panel
 - more equitable distribution of work
 - less time/cost on travel
 - outcomes
- Medical Advisory Panel (MAP) tender
 - surgery requests, complex claim reviews
 - communication with treating doctors
 - renewed by October
- Permanent Impairment (PI) assessment panel
 - variation/differences in PI reports
 - consistency and quality
 - panel in place by new year

[Agriculture](#) - [Construction](#) - [Education](#) - [Health/Community](#) - [Manufacturing](#) - [Medical/Allied health](#) - [Mining/Resources](#) - [Professional services](#) - [Retail](#) - [Tourism](#) - [Transport](#)

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New employer performance summary feature [>>](#)

RTW case study

[Strong safety culture drives down premiums at NTE](#)

Northside Trusses and Frames' long term focus on safety culture and attitudes has resulted in employees returning to work 20 times quicker than the industry average, as well as WorkCover premium rates being halved.

Coming soon

[Safe Work Week 2013](#) is on in October. Register now to join Mal Meninga at one of WHSQ's regional breakfast seminars from July - September. Don't forget to enter the Safe Work Awards, entries close 12 July.

Register for Premium online

[Use Premium](#)

Top tips for renewing your policy

Each new financial year, every accident insurance policy in Queensland is renewed. If your policy in the last year had a premium of \$1200 or more, you will soon receive a wage declaration form by email or mail to declare your wages. View our top tips for your policy renewal. [More >>](#)



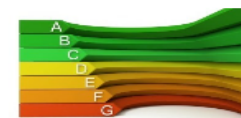
Changes to definition of a worker

New legislation which changes the definition of a worker for workers' compensation purposes has been passed in Parliament. This new legislation, which comes into effect on 1 July 2013, aligns the worker definition with the PAYG test applied under ATO laws. [More >>](#)



WorkCover industry classifications released

The Queensland Government has released the WorkCover industry classifications and rates dated 7 June 2013 (Gazette). [More >>](#)



The power of a phone call

This worker's situation is proof that sometimes one phone call can be all it takes to make or break a person's day or even recovery. [More >>](#)



Working together with small businesses

Challenges faced by small businesses when preventing injuries or managing employees' return to work were discussed at an educational forum hosted by WorkCover and the Australian Industry Group. [More >>](#)



National clinical framework for workers' compensation claims

The Clinical Framework for the Delivery of Health Services was recently revised. The framework outlines guiding principles intended to support providers in their treatment of compensable injuries. [More >>](#)



Industries

- Industry sites
- Industry forums
- Industry publications
- Relationship manager

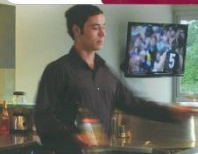
QHAREVIEW

Queensland's own hotel publication

JULY 2013

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HOTEL FEATURE

Watermark Hotel Brisbane

WINNING INSIGHTS

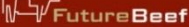
Emporium Hotel
The Long Apron

ACROSS THE BAR

Orlando's Only Room
O'Reilly's Rainforest Retreat

Spotlight on ACCOMMODATION

Working together for profitable and sustainable northern beef production



eBulletin



Hello Subscriber

Welcome to our first FutureBeef update of 2013! Our regular updates will feature the latest in research and development, news and views, and workshops and industry events.

It was a pretty wild start to 2013 for much of Queensland with Tropical cyclone Oswald and subsequent flooding affecting many shires in late January. For more information about disaster assistance and eligibility requirements, please visit [DAFF Queensland](#) or phone 13 25 23.

Remember to regularly check the FutureBeef calendar for the latest events.

FutureBeef is on Facebook and Twitter – so come and check us out!

Please email us and let us know what you think. Feedback and suggestions for content are welcome.

Happy reading!

Rebecca

Agriculture industry website a hub of information

A website tailored for the agriculture industry has been developed by WorkCover Queensland.

You have rights and responsibilities as an employer, learn more here.



Industry publications

workplace health and safety



WORKCOVER QUEENSLAND INDUSTRY PREMIUM RATE

BY MELISSA PETERSON, CUSTOMER SERVICE MANAGER, WORKCOVER QUEENSLAND

As we enter a new financial year, there is some useful information on WorkCover Queensland's policies for employers to know.

STABILITY MAINTAINED FOR EMPLOYERS

Queensland businesses will benefit from stability in workers' compensation premiums with WorkCover Queensland's average rate remaining at \$14.45 per \$100 of wages for the 2013/14 year. This is the second consecutive average premium rate of any state in Australia. Stable claim numbers combined with good management and investment performance has enabled our average rate to be maintained.

WorkCover Industry Classifications: Accommodation/Food Services and Public/Recreational will both experience a minor increase to some of their industry rates (2.49% to 2.50%, and 2.10% to 2.11% respectively). We will continue to focus on injury prevention and management so as to return to work and on working with individual employers to improve their performance.

WorkCover will publish all industry rates from June 30 and communicate with companies about their premium for the 2013/14 year.

IMPROVING THE EMPLOYER ONLINE EXPERIENCE

WorkCover continues to make a difference for our customers as we business with us. Some improvements to our Employer Online include mobile email graphics and tables of rates by the type of injury and location as the tools as employers can easily spot trends. It's a useful tool to help you make improvements to reduce these injuries occurring.

Our calculator and performance summaries are also available anytime via Employer Online. The simulator has now been updated with the newly released industry rates for 2013/14 year. It allows employers to manage any anticipated changes to wages or claim costs throughout the year.

Employers can now access their past five years history of premium assessment and financial statement information – great for showing trends and improvements, or identifying improvement areas. If you don't yet have an Employer Online account, or you would like information about our online services, contact your customer advisor or call 1300 342 128.

workplace health and safety

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workplace health and safety

FRONT LINE SUPERVISORS HOLD THE KEY

Employers play a pivotal role in the recovery and early return to work of injured workers. The role of supervisors is the most crucial of all.

Research has shown that the return to work process and rehabilitation are more effective if a supervisor is involved in the workplace. This has led to a number of new courses in the return to work process.

Supervisors (challenging workers when appropriate) providing feedback on all jobs. This has led to a number of new courses in the return to work process.

A 'bright talk' program for supervisors with employees. All supervisors are now required to have a 'bright talk' program with employees to help them return to work and to identify any safety issues or concerns.

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workplace health and safety

EMPLOYERS ACTION CHECKLIST

Checklist for employers to ensure they are meeting their obligations under the WorkCover Queensland Act 2003.

1. Provide individual planning and coordination advice to the worker's initial and ongoing needs.

2. Assess compensation remains current between all parties.

3. Arrange the worker and other relevant personnel to meet and work as a coordinated team.

4. Provide a safe and healthy work environment.

5. Provide a safe and healthy work environment.

6. Provide a safe and healthy work environment.

7. Provide a safe and healthy work environment.

8. Provide a safe and healthy work environment.

9. Provide a safe and healthy work environment.

10. Provide a safe and healthy work environment.

workplace health and safety

SUITABLE DRESS CHECKLIST FOR INJURED WORKERS

Checklist for employers to ensure they are providing suitable dress for injured workers.

1. Provide suitable dress for the worker's job.

2. Provide suitable dress for the worker's job.

3. Provide suitable dress for the worker's job.

4. Provide suitable dress for the worker's job.

5. Provide suitable dress for the worker's job.

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QHA REVIEW 15



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New Worker Definition Proposal Cuts Red Tape for Employers

Making things simple for employers, and clear for workers – these are the aims of a proposed change to the definition of a worker for workers' compensation purposes.

A Bill tabled in Parliament in April proposes to align the worker definition with the PWGIC applied under Australian Taxation Office (ATO) laws from 1 July 2013.

WorkCover Queensland's Customer Services Manager for Transport, Laurent Clavier, said the proposed change will reduce red tape and make it easier for employers to correctly identify workers when declaring wages for their premium.

"The main reason for the change is WorkCover customers have been confused about who is covered and this has been the source of many complaints.

"Moving to the same definition used by the ATO will make it easier for a worker to know if they are covered for the purposes of workers' compensation," he said.

The proposed definition of worker is a person who works under a contract and, in relation to the work, is an employee for the purposes of assessment for PWGIC withholding under the Taxation Administration Act 1953 (Cth), schedule 1, part 2-0.

The vast majority of workers will not be affected and need not do anything as a result of the change.

If the Bill is passed, the main impact from 1 July will be in the construction and transport industries where there are different contracting arrangements. Those that supply mobile labour only, are covered. Individuals who will no longer be covered for workers' compensation as a result of the proposed change are those who:

- supply and operate their own buses as part of their contract
- have a personal services business determination (PSDB) from the ATO.

These examples are most relevant to the transportation industry. Other workers who are no longer covered mainly relate to the construction industry.

"The information and tools supplied by the ATO to establish if an employee versus a contractor are very clear. WorkCover will use these tools in determining who should be covered for workers' compensation, and this will ensure decisions are consistent," said Mr Clavier.

If you have any questions regarding your obligations for workers' compensation insurance, please call Laurent Clavier on 07 284 7801.

If you have any individuals who own and operate their own buses, then you may wish to speak to them about getting their own insurance," he said.



QTA TRANSPORTER NEWS BRIEF

11th July 2013, Volume 33, Issue 27 (Page 5)



WORKCOVER QLD SHARES INSPIRATIONAL RETURN TO WORK STORY

Article courtesy of WorkCover Queensland

Forget adversity & barriers, determination drives recovery! Would you believe WorkCover Queensland if they told you a 64 year old male truck driver with significant shoulder surgery returned to work 2 weeks post operation with next to no physio? It's true, read WorkCover's transport page for the [inspirational story](#). Thank you to Bob Cuthel for sharing his story, Lindsay Brothers and WorkCover Customer Advisor, Alison Robinson.